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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,230	01/17/2002	Michael D. Vrbanc	WEYE118587/23109A	2936

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EXAMINER

CHIN, PETER

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 10/23/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,230

Applicant(s)

VRBANAC ET AL.

Examiner

Peter Chin

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 and 56-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35, 56-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1,2,8-10,26,27,35, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brucato (4,609,432), Pruszynski (5,942,087) or Greenwood (6,238,520).

The claims are rejected for the reasons given in the previous Office action, Paper No.6.

2. Claims 3,4,11,28, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pruszynski (5,942,087).

The claims are rejected for the reason given in the previous Office Action, Paper No. 6.

3. Claims 3-7,11-25,28-34 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Greenwood (6,238,520).

The claims are rejected as set forth in the previous Office Action, Paper No. 6.

4. Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as obvious over Greenwood (6,238,520) and Casey.

The claims are rejected as set forth in the previous Office Action, Paper No. 6.

5. Claims 58-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood (6,238,520).

Greenwood discloses high cationic charged polymer , up to 50 mol.% cationic monomer and up to 4 meg/g cationic charge. Amounts of the cationic polymer used in Greenwood obviously imparts the claimed cationic charge or at the least, the amount of cationic charge on the starch particle would have been an obvious matter of optimizing

Art Unit: 1731

the charge for optimal retention. Greenwood discloses cationic and anionic polymer retention aids, column 9 and 11.

6. Claims 3-7, 11-25, 28-34, 58, 59, 61-63, 68, 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brucato (4,609,432).

The claims are rejected for the reasons given in the previous Office Action, Paper No. 6. Note in regard to newly added claims 58, 59, 61-63, 68, 69, Brucato discloses the addition of low molecular weight high density cationic charge

Polyethyleneimine, which used in the amounts disclosed by Brucato, would obviously have the claimed surface charge on the starch particles or at the least would have been an obvious matter of routine optimization to obtain optimum retention..

7. Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brucato (4,609,432) in view of Casey.

The claims are rejected for the reason given in the previous Office Action, Paper No. 6.

8. Applicant's arguments have been considered but are deemed not persuasive of patentability.

The arguments are based in part on the alleged showing of unexpected results contained in the Declaration under 37 CFR 1.132 by Thomson. However, the present claims are not commensurate in scope with the showing of unexpectedness in regard to Pruszyński. Specifically the polyquaternary polymer of specified molecular weight and cationic charge imparted to the starch particle has not been claimed. Assuming that the claims are amended to be commensurate with the showing made in the Thomson

Art Unit: 1731

Declaration, the claims may overcome the Pruszynski reference but there has been no comparison made with Brucato and Thomson who disclose high cationic charged polymers.

Applicant's remaining arguments are not convincing for the reasons given in the rejections.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Chin whose telephone number is (703) 308-2046. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Art Unit: 1731

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

A handwritten signature in black ink, appearing to read 'Peter Chin', with a long horizontal flourish extending to the right.

Peter Chin
Primary Examiner
Art Unit 1731